



Paper No. 4

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APR 04 2002

OFFICE OF PETITIONS

In re Application of	:
Franz Saller	:
Application No. 09/966,853	: DECISION DISMISSING
Filed: 28 September, 2001	: PETITION
Attorney Docket No. 112740-311	:

This is a decision on the petition filed on 4 January, 2002, requesting that the above-identified application be accorded a filing date of 28 September, 2001, with Page 1 of the specification as a part of the original disclosure of the application.

The application was filed on 28 September, 2001. However, on 24 October, 2001, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a 28 September, 2001, filing date, but that Page 1 of the specification appeared to have been omitted.

In response, on 4 January, 2002 (certificate of mailing date 21 December, 2001), Page 1 of the specification was filed accompanied by the present petition. Petitioner states "[a]pplicant acknowledges that the Certificate of Mailing associated with the filing of this application indicated that the specification was on 15 sheets, while the return-receipt postcard indicated that the specification [was] (sic) on 16 sheets. Applicant respectfully submits, however, that this discrepancy is really of no consequence given that all pages of this application, including page 1, were definitely filed on September 28, 2001.)

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely

in the application file. If petitioner has evidence that page 1 was among the application papers received in the USPTO on 28 September, 2001, that evidence should be submitted with a renewed petition. Alternatively, if petitioner lacks any evidence that Page 1 was filed in the Office on 28 September, 2001, petitioner may request the application be accorded a filing date of the date the missing page of specification was filed in the Office.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

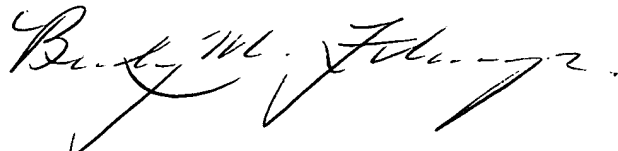
By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

The application file will be retained in the Office of Petitions for TWO (2) MONTHS to await receipt of petitioner's reply to this decision. Thereafter, if no reply is forthcoming, the application file will be forwarded to Initial Patent Examination Division for further processing with a filing date of 28 September, 2001, using the application papers filed on that date.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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